IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8253 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HINSUSTAN PETROLEUM CORPN LTD - Petitioner(s)
Versus
KIRTIDABEN KIRITKUMAR BHATT - Respondent(s)

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Appearance :
MR GN SHAH for Petitioner(s) : 1,MS MINOO A SHAH for Petitioner(s) : 1,
MR SHIRISH JOSHI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 13/04/2007

ORAL JUDGMENT

1. In the present petition, the petitioner Hindustan Petroleum Corporation Ltd. has challenged the order passed by the Principal

Civil Judge, Kalavad on 22nd November, 2005 by which he refused to refer the regular civil suit no. 73/2005 filed by the respondent herein for arbitration. It was the contention of the petitioner that in the dealership agreement there is a clause for arbitration and that it is therefore, compulsory for the civil Court to refer the dispute for arbitration and civil suit is not maintainable.

2. After some discussion at the bar, learned advocate Shri Baiju Joshi appearing for the respondent under instructions stated that the respondent would like to withdraw the civil suit itself with a view to avail the other remedy. He submitted that respondent may either seek arbitration, make a representation to the petitioner corporation or if so advised challenge the termination of dealership by decision dated 28th May, 2005 by way of writ petition.

3. Without expressing any opinion on the availability of any of these remedies, the respondent is permitted to withdraw the suit with a liberty to take such legal recourse as may be available under the law.

4. With these directions, this petition is disposed of. Rule made absolute to the above extent. No order as to costs.

It will be open for the respondent herein to serve this order by direct service to seek formal withdrawal of the suit.

(Akil Kureshi,J.)

(raghu)